

No. 15184

IN THE

United States Court of Appeals

FOR THE NINTH CIRCUIT

JACQUES DE GORTER and SUZE C. DE GORTER, as individuals and as copartners, trading as PELTA FURS,

Petitioners,

vs.

FEDERAL TRADE COMMISSION,

Respondent.

On Petition for Review of an Order to Cease and Desist.

PETITION FOR REHEARING.

WALLEY & DAVIS,

By J. J. WALLEY,

408 South Spring Street,
Los Angeles 13, California,

Attorneys for Petitioners.

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PAUL P. O'BRIEN, C

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To the United States Court of Appeals for the Ninth Circuit and to the Honorable Judges Thereof:

Jacques De Gorter and Suze C. De Gorter, individuals and copartners trading as Pelta Furs, petitioners in the above entitled matter, hereby respectfully petition this Court for an order granting to said petitioners a rehearing of their oral argument in their petition for a review from the cease and desist order made by respondent, Federal Trade Commission. The rehearing is requested only with respect to petitioners' contention *that respondent Commission exceeded the authority vested in it by the Congress in promulgating Rule 44 under the Fur Products Labeling Act.*

The petition for rehearing is respectfully requested upon the following grounds and for the following reasons:

1. That in attempting to ascertain *the evident Legislative intent* in the use of the word “advertising,” as contained in the Fur Products Labeling Act, this Court may have lost sight of the fact that the Act applied equally to manufacturers, wholesalers and importers, of furs (skins) as well as retailers of fur garments, and that the use of the word “advertising” did not contemplate *advertising as to pricing* since importers of skins and manufacturers and wholesalers of both skins and fur garments, do not engage in price advertising in sales campaigns directed to retailers.

2. That this Court may have overlooked the fact that the clause *that said fur product or fur is not falsely advertised or invoiced under the provisions of this Act*, is contained in Section 10 of the Fur Act entitled “Guaranty,” which Section of the Act has no connection with the pricing of fur products or furs (garments or skins).

3. That this Court may have overlooked the fact that the catchall clause *“contains any form of misrepresentation . . . with respect to such fur product or fur,”* wherever used in the Act, applies to raw skins as well as fur garments and that “misrepresentation with respect to raw skins” does not contemplate price advertising, since “raw skins” are not sold by retailers and price advertising with respect to “raw skins” is not engaged in by importers, manufacturers or wholesalers.

4. That this Court was persuaded, in arriving at its decision, more by the facts of the instant case, than by *the evident intent and purpose of the Congress*, in adopting the Act, which should be determined from a con-

sideration of the quoted language and all parts of the Act, in their relation to all classes of persons affected by it.

WHEREFORE, petitioners pray that this Court make its order granting petitioners a rehearing and further oral argument in support of their petition for review of the order to cease and desist.

Respectfully submitted,

WALLEY & DAVIS,

By J. J. WALLEY,

Attorneys for Petitioners.

Certificate of Counsel.

J. J. WALLEY, one of the attorneys for the petitioners in the foregoing petition for review of an order to cease and desist made by respondent, Federal Trade Commission, hereby certifies that in his opinion the grounds set forth in the foregoing petition for rehearing are well taken in law and are not interposed for the purpose of delay.

J. J. WALLEY.

